

Missoulain Editorial 1-20-05

SENATE JUDICIARY

EXHIBIT NO. 19

DATE 1/22/09

BILL NO. SB 223

## **What we hate is unequal protection - Thursday, Jan. 20, 2005**

**SUMMARY:** Legislators ought to repeal, not expand, law protecting some crime victims more than others.

Do you suppose someone beaten bloody by a complete stranger feels less victimized than, say, a naturalized citizen who is beaten bloody by a complete stranger?

Neither do we.

Should it be less of a crime to murder a person of color than a white person? Of course not. Then can you explain why, under Montana law, it's a worse crime to murder a person of color than it is to murder some races than it is others? Neither can we.

Don't you think the line in the Montana Constitution that guarantees "No person shall be denied the equal protection of the laws" means what it says - that we're all equal in the eyes of the law?

So do we.

Montana legislators once again are debating expanding the state's "hate crime" statute. As it now reads, the law allows judges to impose tougher sentences on criminals who victimize people based on race, creed, religion, color and national origin. Now lawmakers are talking about adding gender, disability and sexual orientation to the list of special victims against whom crimes are to be considered worse than the crimes committed against other Montanans.

Legislators would do more to advance the cause of equality by repealing, not expanding, the hate-crime law. Doing so would restore the constitutional promise of equality under the law.

Do not misread or twist this argument into a question of whether we condone violence or discrimination against gays, the disabled or anyone else. We absolutely don't. But there's no way to treat crimes against some classes of victims as worse than others without effectively downplaying the importance of those other crimes.

And, for what it's worth, it's also fallacious to suggest that criminals' true motives and undeclared biases are discernable with any consistency.

Criminal laws logically focus on behavior. Crime prevention aims to prevent illegal behavior. How are we to prevent hate crimes, then? Surely it would be necessary to take the next step, which is to outlaw hate, which boils down to thoughts and emotions. Sounds like a job for the Thought Police.

All of the offenses covered by the hate-crime statute already are against the law. If that doesn't deter offenders, making them against two laws won't either. This is feel-good legislation that, because it reneges on the constitutional guarantee of equal protection, shouldn't make anyone feel very good.